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RIN 1210-AB63
U.S. Department of Labor
Office of Regulations and Interpretations, Employee Benefits Security Information
Annual Reporting and Disclosure, Room N-5655
200 Constitution Avenue, NW
Washington, D.C. 20210

Submitted via www.regulations.gov

The Retail Industry Leaders Association (RILA) welcomes the opportunity to provide comments to the U.S. Department of Labor regarding RIN 1210-AB63, proposed revisions to the Form 5500 Annual Return/Report of Employee Benefit Plan, and specifically the new proposed Schedule J. RILA is also a member of the U.S. Chamber of Commerce, and supports the sentiments regarding Schedule J conveyed in the letter filed by the Chamber.

As the trade association of the world's largest and most innovative retail companies, product manufacturers, and service suppliers, RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA is concerned that the proposed requirements under the new Schedule J run counter to the intent of improving health outcomes under the Affordable Care Act (ACA), are potentially duplicative of other employer requirements, and will lead to burdensome compliance costs.

Retailers are committed to ensuring employer-sponsored health coverage remains a viable option for the nearly 175 million Americans receiving coverage today. For decades, retailers have offered quality and affordable health care to their employees and families, and are leaders in benefits design by customizing plans to meet their workforces' specific needs. Long before the enactment of the ACA and its numerous employer requirements, retailers embraced the concept that investing in a healthy workforce today not only lays the foundation for a healthier society but also ensures the development of a more productive workforce which is able to enjoy a higher quality of life.

While the ACA's goal of improving health outcomes may be a laudable one, the reporting approach proposed under the new Schedule J, under Public Health Service Act (PHSA) Sections 2715A and 2717, may do little to help achieve this goal. There is no standard workforce population or standard employer plan in the self-insured market – and no one-size-fits-all employer health plan. Retailers tailor benefits offerings to meet the needs of their employees as a result of specific input from those employees. Self-insured retail plans reflect the uniqueness of plan benefit design and covered population. For decades, private sector employers have been actively engaged in developing innovative approaches to encourage preventive health care to

improve health outcomes, and to lower health care costs and premiums. Reporting massive amounts of claims data under Schedule J, which essentially amounts to a large data dump without respect for the uniqueness of plan design or utilization will not help decipher what methods may help achieve improved health outcomes and cost savings in the health sector. It is important to note that many claims denials may be a result of duplicative filings or submission of a claim by a doctor's office for an individual who may not be an active plan enrollee. There is an important difference between claims denials based on medical reasons versus those based on paperwork issues. This type of research and analysis activity is better suited through private-public partnership entities such as the Patient-Centered Outcomes Research Institute (PCORI).

RILA is concerned that the claims data under Schedule J may be used by federal regulators to implement public sector price controls. Free market, private innovation is the key to improving health outcomes and controlling rapidly rising health costs, not federal government price fixing. Further, as noted in the preamble, the Department of Health and Human Services (HHS) will be issuing separate proposed rules in the future regarding transparency and quality reporting. As was the case with other ACA requirements that crossed department jurisdiction, such as the Summary of Benefits and Coverage, the Departments of Labor, HHS, and Treasury should issue proposed rules simultaneously and not piecemeal as is the case under the 5500 propose rules.

Throughout the last five years of working with federal regulators on the numerous employer requirements under the ACA, RILA has continually stressed that these requirements should not be thought of in a vacuum – employers look holistically at complying with the ACA and not at whose jurisdiction a certain requirement falls under. Several pieces of the data that is required to be reported under Schedule J are already being reported through other ACA requirements such as the Summary of Benefits and Coverage, 6055 and 6056 reporting, and W2 reporting. Adding another burdensome reporting requirement does nothing to educate the public about improving health outcomes or controlling costs.

RILA and its member companies appreciate the constructive dialogue they have engaged in with the Departments of the Treasury, Labor, and Health and Human Services since the enactment of the ACA. This process, while lengthy, complex and complicated, has led to the development and codification of flexible policy and compliance solutions for employers of variable workforces. RILA strongly supports the goal of increasing consumer awareness about health care utilization and bringing transparency to all aspects of the delivery system but not through the reporting process and claims collection proposed under the new Schedule J.

Please direct questions or requests for further information about this comment letter to Christine Pollack, Vice President of Government Affairs, with the Retail Industry Leaders Association (RILA) at Christine.pollack@rila.org or 703-600-2021.